

THE HOA INFORMATION OFFICE AND RESOURCE CENTER



Dora
Department of Regulatory Agencies

Disclaimer

- Note: The Information provided during this presentation is for educational purposes only and is not meant to provide or to be construed as legal advice. Any legal questions should be directed to your attorney.

WHAT IS DORA?




“DORA is dedicated to preserving the integrity of the marketplace and is committed to promoting a fair and competitive business environment in Colorado. Consumer Protection is our mission.”

DORA Website

www.dora.colorado.gov/dre

Colorado.gov

Text Size [A] [A] [A] Search

 **Dora**
Department of Regulatory Agencies
Division of Real Estate

Consumers Professions Boards News/Media About Us DORA Home

Ask Dora [Search]

DORA is dedicated to preserving the integrity of the marketplace and is committed to promoting a fair and competitive business environment in Colorado. Consumer protection is our mission.

Real Estate Commission Approved Contracts and Forms
Learn More

Top Links

- Search Licensees
- Statutes, Rules and Position Statements
- Real Estate Manual
- Real Estate Contracts and Forms
- Online License Management and Renewal
- Real Estate Broker Licensing
- Real Property Appraisers and Property Inspections
- Contact Information

Consumers

- Licensing
- Education
- File a Complaint
- FAQs
- Calendar

Search Licensees

Consumer Tips

About the Division

Real Estate Contracts

- Search for Public Disciplinary Actions
- Statutes, Rules and Position Statements
- Sign up for the Division of Real Estate's Newsletter
- Open Records Requests
- Title Fact Sheet
- Homeowners Associations
- Contact Information

Select Language [v] Connect [Facebook] [Twitter]

1550 Broadway, Suite 1550, Denver, CO 80202
(303) 594-7555 - Phone (303) 595-1675 - Toll Free (303) 594-7555 - Fax

Policies | © 2013 State of Colorado

**Ask Dora**

DORA is dedicated to preserving the integrity of the marketplace and is committed to promoting a fair and competitive business environment in Colorado. Consumer protection is our mission.

Real Estate
Commission
Approved
**Contracts and
Forms**

[Learn More](#)**Top Links**

- [Search Licensees](#)
- [Statutes, Rules and Position Statements](#)
- [Real Estate Manual](#)
- [Real Estate Contracts and Forms](#)
- [Online License Management and Renewal](#)
- [Real Estate Broker Licensing](#)
- [Real Property Appraisers and Property Inspections](#)
- [Contact Information](#)

Consumers

[Licensing](#)
[Education](#)
[File a Complaint](#)
[FAQs](#)
[Calendar](#)

[Search Licensees](#)[Consumer Tips](#)[About the Division](#)[Real Estate Contracts](#)

- [Search for Public Disciplinary Actions](#)
- [Statutes, Rules and Position Statements](#)
- [Sign up for the Division of Real Estate's Newsletter](#)
- [Open Records Requests](#)
- [Title Fact Sheet](#)
- [Homeowners Associations](#)
- [Contact Information](#)





Dora
Department of Regulatory Agencies
Division of Real Estate



[Consumers](#) [Professions](#) [Boards](#) [News/Media](#) [About Us](#) [DORA Home](#)

[Home](#) > [Homeowners Associations](#)

[Consumer Information](#)

[Complaints](#)

[Frequently Asked Questions](#)

[HOA Statutes, Rules and
Position Statements](#)

[Registration](#)

Homeowners Associations

The HOA Information Office and Resource Center provides information on the rights and duties of homeowners and associations under the Colorado Common Interest Ownership Act.

HOA FORUM

Date: March 6, 2013

Time: 10:00 am - 12:00 p.m.

Location: DORA - Suite 1100; 1550 Broadway, Denver, CO 80202

Learn about the Colorado HOA Information and Resource Center and meet the HOA Information Officer. The HOA Information Officer will be available to listen to your issues and concerns regarding HOAs, provide you with some resource materials, and assist with understanding one's rights and obligations of living in a HOA community.

Areas of concern from the 2012 Annual Report of the Center will also be discussed, as well as an update on current legislation concerning HOAs. This program is open to everyone. While the event is free, registration is required. Space available on a first come, first served basis. [Click here to email your name and contact information to reserve your seat.](#)

[Upcoming HOA Forum Schedule](#)

2012 Annual Report

[2012 Annual Report of the HOA Information and Resource Center](#)

Annual Registration

In addition to the annual Secretary of State Registration, HOAs are required to register with the Colorado Division of Real Estate once per year. HOA's that fail to register, renew registration, or pay the required fee may be precluded from imposing or enforcing a lien for assessments.

[Click here to register an HOA online.](#)

Complaints

The HOA Information Office strives to assist homeowners and other consumers in answering general HOA questions and compiling data on issues homeowners are having. The HOA Information Office does not have regulatory or investigative authority and cannot intervene in disputes.

[Click here to file a complaint against an HOA](#)

Select Language

Connect



1550 Broadway, Suite 1550, Denver, CO 80202
(303) 894-7835 - Phone (303) 336-7819 - Toll Free (800) 894-7835 - Fax



Dora

Department of Regulatory Agencies
Division of Real Estate

[Home](#) » [Homeowners Associations](#) » [Consumer Information](#) »

Consumer Information

[Government Links](#)

[Alternative Dispute
Resolution Links](#)

[Legal Services Links](#)

[Other Resource Links](#)

[Complaints](#)

[Frequently Asked Questions](#)

[HOA Statutes, Rules and
Position Statements](#)

[Registration](#)

Consumer Information


Publications

[How to Handle HOA Disputes](#) 

[Before You Purchase in an HOA](#) 

[Covenant and Rule Enforcement](#) 

[Understanding HOA Meetings](#) 

[2011 Annual Report of the HOA Information Office](#) 

[2012 Annual Report of the HOA Information and Resource Center](#) 

Consumer Links

[Frequently Asked Questions](#)

[HOA Complaint Form](#) 

Finding Colorado Statutes

- **Colorado General Assembly:**
<http://www.leg.state.co.us>

Can locate and copy Colorado Revised Statutes (C.R.S.)

Can follow and track progress of Bills in the legislature.

HOA Information Office

- In operation since January 1, 2011.
- HB10-1278 – codified in C.R.S. §12-61-406.5(1).
- Created in 2010 by the Colorado Legislature as a result of legislative and consumer concerns regarding HOAs in Colorado.
- Office is organized within the Division of Real Estate under the Department of Regulatory Agencies (DORA).

The HOA Office

- Is not a regulatory program.
- Does not mediate/arbitrate.
- Cannot provide legal advice.
- Does not act as an advocate.
- Cannot assess fines or penalties.
- Does not enforce an HOA's failure to register.

The HOA Office Does:

- **Provide information to homeowners regarding their basic rights and responsibilities under the Colorado Common Interest Ownership Act “CCIOA”.**
- **Gather, analyze and report information through complaints and HOA registration.**
- **Create resource materials.**
- **Provide education and forums.**
- **Work with homeowners, industry groups and professionals.**
- **Register HOAs - §38-33.3-401(1) C.R.S.**
- **Provide an Annual Report (website).**

Resources Available

- **Talk to the Information Officer**
- **Website Information** (Publications/FAQ's)
- **Statutes and Bills**
- **Legal Referrals** (Cobar, Legal Aid)
- **Alternative Dispute Resolution Referrals** (mediation/arbitration)
- **Government Agency Referrals**
(Attorney General, Civil Rights Division,
Law Enforcement)

HOA Office Goals

- **Expand community outreach throughout the State;**
- **Utilize media and non-profit resources for the dissemination of HOA information;**
- **Develop more educational information for HOA owners, managers, and developers;**
- **Provide community presentations, forums, and workshops on HOA issues;**
- **Offer HOA educational classes for consumers and industry professionals;**
- **Have a greater Office website presence with practical HOA issue information and materials, expanding FAQ's, and providing useful resource links for additional assistance and referrals;**
- **Streamline the HOA registration system in order to collect relevant HOA data; and**
- **Empower the consumer with knowledge concerning their rights and responsibilities in an HOA.**

Data We Collect

- **Registration Process:**
 - (a) The name of the association/CIC;
 - (b) The name of the association's designated agent or management company, if any;
 - (c) A valid physical address and telephone number for both the association and the designated agent or management company, if any;
 - (d) The initial date of recording of the declaration; and
 - (e) The reception number or book and page for the main document that constitutes the declaration.

Who Must Register

- **§38-33.3-401(1) C.R.S.**
- **(revised by HB13-1134 (2013) to include pre-CCIOA communities.) (Pre - July 1, 1992)**
- **Requires that “every unit owner’s association shall register annually with the Director of the Division of Real Estate.”**
- **The statute mandates HOAs to complete an initial registration and renew their registration on an annual basis, as well as updating any relevant information within ninety days of any change.**
- **Renewals are done on an annual basis.**

Registration Fee

- HOAs that collect greater than \$5,000 in annual dues are required to pay the registration fee.
- HOAs that are not authorized to make assessments and do not have any revenue or HOAs that collect \$5,000 or less in annual revenue are not required to pay the registration fee.
- Does not absolve any such HOA from still registering.
- The 2014 registration fee is \$27 (plus a small processing fee).

HOA REGISTRATION AND THE FAILURE TO REGISTER

- §38-33.3-401(3), C.R.S., provides that “the right of an association that fails to register, or whose annual registration has expired, to impose or enforce a lien for assessments under section 38-33.3-316 or to pursue an action or employ an enforcement mechanism otherwise available to it under section 38-33.3-123 is suspended until the association is validly registered...”

“A lien for assessments previously recorded during a period in which the association was validly registered or before registration was required.....is not extinguished by a lapse in the association’s registration, but a pending enforcement proceeding related to the lien is suspended, and an applicable time limit is tolled, until the association is validly registered...”

“AN ASSOCIATION’S REGISTRATION IN COMPLIANCE WITH THIS SECTION REVIVES A PREVIOUSLY SUSPENDED RIGHT WITHOUT PENALTY TO THE ASSOCIATION.”

Failure to Register

- The Division of Real Estate does not enforce the above-referenced provision.
- Can be used as a defense in a civil action.
- There are questions as to whether past due assessments can accrue during the period of the HOA's non-compliance. Up to the court's judicial determination.
- An Attorney or HOA can request the Division of Real Estate to provide a **CERTIFIED REGISTRATION LETTER** to verify that the HOA is validly registered and when it was initially registered.

How We Collect Data

- **Complaint Process:**
 - written complaints
 - emails
 - online submissions
 - talk with complainants
 - walk-ins

REGISTRATION STATISTICS

For 2013:

8,857 registered HOAs

880,326 units

(single/multi-family/timeshares)

Condominiums – Cooperatives –

Planned Communities

The statistics assist: homeowners, managers and legislators in recognizing problem areas and in proposing legislation.

Inquiries

•**4,767** for 2013.

- General operation of an HOA. (assessments, accounting, insurance, budgets and reserves)
- Board of director responsibilities. (election, voting and proxy issues, meeting procedures, and conflicts of interest)
- Enforcement capabilities of an HOA.
(fees, costs fines, liens, foreclosure and receiverships)
- Declarant issues. (disclosure of documents, following CC&R's and termination of control)
- Maintenance and upkeep of the community.
- Disclosure and the production of HOA records to owners.
- Manager/management company and vendor concerns.
- HOA Registration questions.

Complaints in 2013

- **1,248 Complaints**

Approximately:

- **56%** against HOA/board
- **41%** against manager and/or mgmt company
- **3%** against Declarant

Complainant Demographics

- **327** Complainants in 2013:
 - **76%** in professionally managed communities
 - **24%** in self-managed communities

-
- **53.5%** in condos
 - **45.5%** in PUD's
 - **1%** in timeshares

Top Complaints for 2013

- **Communication with owners.**
- **Not following governing documents.**
- **Improper/Selective enforcement of covenants.**
- **Accounting**
(assessments/fines/interest/improper budgeting).
- **Not performing maintenance.**
- **Failure to produce records.**
- **Meeting issues**
- **Election and voting issues**
- **Harassment/Retaliation**
- **Conflicts of Interest**

How can boards and managers stay out of trouble?

- Be transparent.
- Provide easy access to records.
- Provide meeting notice.
- Ensure that the rules are followed.
- Ensure homeowners know your role and limitations.
- Be visible.
- Provide exceptional customer service.
- Promote responsible governance.

DISPUTES

- **Part of HOA living.**
- **Communication is “key”.**
- **Follow dispute resolution policies – or put them in place if there are none.**
- **Listen to the arguments.**
- **Work for a fair resolution.**
- **Learn from the process.**

BOARD MEETINGS

- Provide notice and an agenda.
- Create a homeowner forum.
- Encourage discussion on items being voted upon.
- Utilize good motion practice.
- Know the rules and laws regarding executive sessions.
- Be aware of conflicts of interest.
- Be mindful of conducting business outside of meetings.
- Take good minutes.

Recent Legislation

- [HB12-1237](#): CIC Record-Keeping
- [HB13-1134](#): HOA Information and Resource Center & Registration
- [HB13-1276](#): HOA Debt Collection Limitations
- [HB13-1277](#): Regulation License CIC Managers
- [SB13-126](#): HOA Condo/Apt Electric Vehicle Charging Stations
- [SB13-183](#): CIC Water Conservation
- [SB13-182](#): Timeshare Resales

COMPLAINTS AGAINST MANAGERS

- **Many complaints referenced a manager/management company.**
- **Whether a complaint is against the HOA board or manager is hard to distinguish in some cases.**
- **Many homeowners may not understand the manager's role versus the board member's role.**
- **Complaint types involving managers tend to mirror those received from self-managed HOA communities.**

Complaint Types Grouped with C.R.S.

- **§38-33.3-209.5 – Responsible Governance Policies – due process for imposition of fines.**
- **§38-33.3-307 – Upkeep of the Common Interest Community.**
- **§38-33.3-308 – Meetings.**
- **§38-33.3-310 – Voting – proxies.**
- **§38-33.3-310.5 – Executive Board – conflicts of interest.**
- **§38-33.3-317 – Association Records.**

Relevant laws



- **CCIOA – Colorado Common Interest Ownership Act**
 - C.R.S. §38-33.3-101 to §38-33.3-319
- **COA – Condominium Ownership Act**
 - C.R.S. §38-33-101 to §38-33-113
- **Colorado Revised Non-Profit Corporation Act**
 - C.R.S. §7-121-101, et. seq.
- **ADA & Fair Housing Laws**
- **Governing documents**
(Declarations, CC&R's, Bylaws, Rules & Regs)

CCIOA

(Colorado Common Interest Ownership Act)

- Effective July 1, 1992.
- General Rule – if the payment of assessments is mandatory, CCIOA applies.
Other associations, including commercial common interest associations, may elect to be governed by CCIOA.
- CIC's created on/after the effective date are dealt with comprehensively as to their creation, development and management.
- CIC's created prior to the effective date are only subject to limited provisions.

Senate Bills 100 (2005) and 89 (Clean-up) (2006)

- **Increased Protections for Homeowners (SB-100)
(Incorporates into existing CCIOA statutes)**
 - **Included HOA prohibitions from barring:**
 - **American Flag, Political Signs, Military Svc
Flags.**
 - **Parking Emergency Vehicles for
Responders.**
 - **Xeriscaping (or requiring turf grass).**
 - **Removing of trees, etc. to create defensible
fire mitigation space.**
 - **Replacement of cedar or other flammable
roof materials with non-flammable roofs.**

New Records Law

HB12-1237

- HB12-1237, codified at §38-33.3-317, C.R.S.
- **Effective January 1, 2013.**
- This new HOA records law addresses the following:
- Records which must be maintained and produced;
- Records which may be withheld from production;
- Records which must be withheld from production;
- The elimination of a requirement that owners must state a “proper purpose” to access records;
- The use of membership lists;
- The procedures for requesting HOA records; and
- The charges for assembling, producing, and copying the records.

HOA Communities

- **Most condominiums, townhome developments, and many newer single-family subdivisions have HOAs, and are usually created when the housing development is built.**
- **Covenants, Conditions & Restrictions (CC&R's) are created for the community, and the HOAs are established to ensure that those restrictions are adhered to in order to maintain the quality and value of the properties in the community.**

Considerations When Purchasing into a HOA Community

- **Review the HOA's finances and reserves – how financially sound is the HOA?**
- **Read the association documents, including the rules and regulations – to see what you can and cannot do with your property. What are the amenities, parking, business and pet restrictions?**
- **Find out how the association is run – is it self-managed or is there a property management company or manager.**
- **Find out what is all covered with your HOA dues and how do the fees compare with similar communities and amenities?**

Some Aspects of Living in a HOA

- **Membership is usually mandatory for all property owners within the community.**
- **Members are usually charged association dues.**
- **HOAs have the authority to enact and enforce maintenance and design standards.**
- **HOAs are formal entities with covenants, bylaws, rules & regulations, and usually a governing board, which may hire a community manager or management company to handle its administrative affairs.**

HOA Information

- Title Companies have contact information.
- Review Title Commitment – Schedule B-2 exceptions.
- Get information from the Seller, as per the Buy/Sell Contract – Section 7.1
- Our website has a registered list and search engine.
- Also: <http://www.hoa-usa.com>

HOA Documentation

- Sec 7.1 of Buy/Sell Contract:

- Governing Documents:

- HOA Declarations; Bylaws; Operating Agreements; Rules & Regulations; and Party-Wall Agreements.
- Minutes of most recent annual owner's meeting.
- Minutes of any director's or manager's meetings during the last 6 month period immediately preceding the date of the contract.

- Financial Documents:

- The most recent financial documents which consist of: (1) annual and most recent balance sheet; (2) annual and most recent income and expenditures statement; (3) annual budget; (4) reserve study; and (5) notice of unpaid assessments, if any.

Discussion Issues

- **Alternative Dispute Resolution/Mediation**
- **Investigation/Enforcement**
- **Manager/Management Company Licensing**
- **Not Following Governing Documents**
- **Board Member Duties and Responsibilities**
- **Maintenance Issues**
- **Xeriscaping/Green Energy**
- **Document Production and Cost**
- **Assessments and Reserves**
- **Transfer/Status Letter Fees**
- **Foreclosure**
- **Meetings and Elections**
- **Parking, Pets and Pot**
- **Education**
- **Change for the Better**

Education and Outreach

- **Areas of interest.**
- **What would help you?**
- **HOA issues or concerns.**
- **Proposed law changes.**
- **Website information.**
- **Educational sessions/forums.**

HOA OUTREACH SEMINARS

- Informational HOA forum – Learn about the role of the HOA Information and Resource Center, with a discussion of issues and current laws.
- HOA meetings and elections - Types of meetings, elections and voting within the HOA community.
- Governing documents and enforcement - The declarations, covenants, bylaws, rules, regulations, and inspection of records.
- Assessments, fines, penalties, liens and foreclosure- Review of common HOA fines, penalties, liens and the foreclosure process.
- Board member duties and responsibilities – Overview of the workings of an HOA board, and the duties and standards of care of the board members.
- HOA finances and reserves - An overview of HOA financial statements and responsibilities, reserves and relevant statutes.
- Rights and responsibilities of owners - The rights and responsibilities of owners under the Colorado Common Interest Ownership Act (CCIOA).

ADR - Mediation

- **C.R.S. §38-33.3-124**
- **Association Policy**
- **Pros**
- **Cons**
- **Voluntary**
- **Mandatory**
- **Arbitration**
- **Med-Arb**
- **Costs and fees - Shared ?**

Community Association Managers

- [HB13-1277 \(2013\):](#)
- **Effective in 2015**
- **Manager Licensing:**
 - **Individual managers**
 - **Management company CEO's and supervisors.**
 - **Licensed by July 1, 2015**

Elections

- **Notice**
- **Ballots**
- **Voting**
- **Proxies**
- **Term limits**
- **Monitoring**

Meetings

- **Notice of meetings**
- **Annual meetings**
- **Board meetings**
- **Open meetings**
- **Owner forums**
- **Executive board sessions**
- **Ability to speak at meetings**
- **Meeting rules – Motion practice**

Reserves

- CCIOA states: § 38-33.3-209.5:
Responsible governance policies:
- (VI) Investment of reserve funds;
- (IX) When the association has a reserve study prepared for the portions of the community maintained, repaired, replaced, and improved by the association; whether there is a funding plan for any work recommended by the reserve study and, if so, the projected sources of funding for the work; and whether the reserve study is based on a physical analysis and financial analysis. For the purposes of this subparagraph (IX), an internally conducted reserve study shall be sufficient.

Financial Information Budget and Reserves

- § 38-33.3-209.4: Public disclosures required:
 - (2) Within 90 days after the end of each fiscal year, the association shall make the following information available to unit owners upon reasonable notice:
 - (b) Its operating budget for the current fiscal year;
 - (d) Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
 - (e) The results of its most recent available financial audit or review.

Construction Defect Matters

- § 38-33.3-303.5: Construction defect actions-disclosure:
 - (2)(b) The notice required by paragraph (a) of this subsection (2) shall state a general description of the following:
 - (I) The nature of the action and the relief sought; and
 - (II) The expenses and fees that the executive board anticipates will be incurred in prosecuting the action.

FHA Certification

- **Concerns:** (For condo projects as a whole; and approval is for 2 years)

Factors that might prevent FHA approval:

- **Pending or recent litigation** (construction defects);
- **Pending or recent special assessments**;
- **Adequate budget and reserve funding** (at least 10%);
- **Owner occupancy ratio** (>50% owner-occupied);
- **Adequate insurance coverage**;
- **Delinquent assessments** (no more than 15% >60 days);
- **Commercial use** (no more than 50% of total floor area, but requires substantial documentation);
- **Investor ownership** (no more than 50% of units owned by single investor);
- **Governing documents** (any provisions which violate FHA guidelines must be amended (i.e. certain types of rental restrictions, transfer fees and restrictions on conveyance.)

HUD – FHA Condominium Search

<https://entp.hud.gov/idapp/html/condlook.cfm>

Gives you:

Condo Name

Condo ID Submission

Address / County

Approval Method

Composition of Project

Comments

Document Status

Manufactured Housing

FHA Concentration Status

Status Date

Expiration Date

Board Member Duties and Responsibilities

- **Role of the Board**
- **Duties of the Board Members**
- **Education and Training**
- **Code of Conduct**
- **Conflicts of Interest**
- **Planning Sessions and Retreat**
- **Recruitment Committee**
- **Advisory Board Members**

Financial Issues

- **Budgets**
- **Reserves**
- **Assessments**
- **Fees, Costs, Fines**
- **Legal Fees**
- **Transfer/Status letter fees**
- **Costs to obtain documents**
- **Foreclosure concerns**

Colorado Foreclosure Hotline 1-877-601-HOPE (4673)

www.ColoradoForeclosureHotline.org

- Four out of five homeowners who met with a counselor have successfully avoided foreclosure.
- The Hotline provides homeowners facing foreclosure a local connection to free foreclosure prevention services.



HOA Information Office

- **Gary Kujawski**
HOA Information Officer
1560 Broadway, Suite 925
Denver, CO 80202
ph# 303-894-2355

Email: gary.kujawski@state.co.us

Website: www.dora.colorado.gov/dre

THANK YOU

DORA is dedicated to preserving the integrity of the marketplace and is committed to promoting a fair and competitive business environment in Colorado.

Consumer protection is our mission.

